



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

May 19, 2021

**VIA ECF**

The Honorable Paul A. Engelmayer  
United States District Judge  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *East Village New Deli Corp. v. United States of America, et al.*,  
20-cv-7356 (PAE)

Dear Judge Engelmayer:

This Office represents Defendants United States of America and Thomas J. Vilsack (the "Government") in the above-referenced action, in which Plaintiff seeks review of a Final Agency Decision permanently disqualifying Plaintiffs from participating in the Supplemental Nutrition Assistance Program ("SNAP"). ECF No. 1.

Consistent with the Protective Order entered by the Court on March 8, 2021 (ECF No. 26), and pursuant to Rule 4.B.2 of this Court's Individual Rules, the Government respectfully seeks leave to file a redacted version of the certified administrative record on the public docket in this case. The administrative record contains information regarding electronic benefits transfer ("EBT") card recipients and stores participating in the SNAP; this information is covered by the Privacy Act, 5 U.S.C. § 552a(b), The Food and Nutrition Act of 2008, 7 U.S.C. § 2020(e)(8), and the federal regulations promulgated thereunder, 7 C.F.R. § 272.1(c) (collectively "the Acts"). The information includes Food and Nutrition Service ("FNS") numbers, EBT card numbers, household numbers, and other confidential, personal, or similar information.

The Government respectfully submits that sealing is appropriate notwithstanding the presumption of access discussed by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), in light of the privacy interests of third parties. *See, e.g., Beverly Hills Teddy Bear Co. v. Best Brands Consumer Prod., Inc.*, No. 19 Civ. 3766 (GHW), 2020 WL 7706741, at \*2 (S.D.N.Y. Dec. 29, 2020) ("Higher values that may justify the sealing of documents include . . . the privacy interests of third-parties" (citing *E.E.O.C. v. Kelley Drye & Warren LLP*, No. 10 Civ. 655 (LTS) (MHD), 2012 WL 691545, at \*2 (S.D.N.Y. Mar. 2, 2012))); *Republic of Turkey v. Christie's Inc.*, No. 17 Civ. 3086 (AJN), 2020 WL 7338074, at \*1 (S.D.N.Y. Sept. 11, 2020) ("Specifically, for the redacted portions, the parties' and third parties' privacy interests outweigh the 'value of such information to those monitoring the federal courts.'"). In similar SNAP disqualification cases in this district, courts have permitted the Government to submit a redacted version of the administrative record in support of a motion for summary judgment. *See, e.g., Notice of Certified Administrative Record, Muazeb v. United States*, No. 17

Civ. 6754 (DCF), ECF No. 18; Notice of Certified Administrative Record, *Capellan v. United States*, No. 17 Civ. 9342 (AT), ECF No. 53. The Government requests leave to do the same in this case. Plaintiff consents to this sealing request.

I thank the Court for its consideration of this submission.

Respectfully,


AUDREY STRAUSS  
United States Attorney

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cc: Lance Lazzaro, Esq. (by ECF)  
Counsel for Plaintiff

Granted.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

May 20, 2021